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Return or restitution of cultural property to the countries of origin

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Return or restitution of cultural property to the countries of origin

The General Assembly,

Reaffirming the relevant provisions of the Charter of the United Nations,

Recalling its resolutions 3026 A (XXVII) of 18 December 1972, 3148 (XXVIII) of 14 December 1973, 3187 (XXVIII) of 18 December 1973, 3391 (XXX) of 19 November 1975, 31/40 of 30 November 1976, 32/18 of 11 November 1977, 33/50 of 14 December 1978, 34/64 of 29 November 1979, 35/127 and 35/128 of 11 December 1980, 36/64 of 27 November 1981, 38/34 of 25 November 1983, 40/19 of 21 November 1985, 42/7 of 22 October 1987, 44/18 of 6 November 1989, 46/10 of 22 October 1991, 48/15 of 2 November 1993, 50/56 of 11 December 1995, 52/24 of 25 November 1997, 54/190 of 17 December 1999, 56/97 of 14 December 2001, 58/17 of 3 December 2003, 61/52 of 4 December 2006 and 64/78 of 7 December 2009,

Recalling also its resolution 56/8 of 21 November 2001, in which it proclaimed 2002 the United Nations Year for Cultural Heritage,

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Recalling further the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property,[1] the Convention on Stolen or Illegally Exported Cultural Objects,[2] the Convention for the Protection of Cultural Property in the event of Armed Conflict[3] and the two Protocols thereto[4], the Convention concerning the Protection of the World Cultural and Natural Heritage,[5] the Convention on the Protection of the Underwater Cultural Heritage,[6] the Convention for the Safeguarding of the Intangible Cultural Heritage[7] and the Convention on the Protection and Promotion of the Diversity of Cultural Expressions,[8]

Welcoming the fortieth anniversary of the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property and the activities undertaken by the United Nations Educational, Scientific and Cultural Organization in this regard,

Appreciating the positive results of the second meeting of the States parties to the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property in June 2012, which adopted the Rules of Procedure of the meeting of the States parties that, inter alia, stipulate that the meeting of the States parties shall be convened every two years, and also established a subsidiary committee, which will be convened by the secretariat every year,

Welcoming the decision of the Executive Board of the United Nations Educational, Scientific and Cultural Organization at its 190th session, authorizing the Director General to convene an Extraordinary Meeting of the States parties to the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property during the first half of 2013, charged with electing the members of the subsidiary committee, and encouraging the Director General to convene the first meeting of the committee in the first half of 2013,

Noting the adoption of the United Nations Convention on Jurisdictional Immunities of States and Their Property on 2 December 2004,[9] as it might apply to cultural property,

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[1] United Nations, *Treaty Series*, vol. 823, No. 11806.

[2] Available from www.unidroit.org.

[3] United Nations, *Treaty Series*, vol. 249, No. 3511.

[4] Ibid., vol. 249, No. 3511 and vol. 2253, No. 3511.

[5] Ibid., vol. 1037, No. 15511.

[6] See United Nations Educational, Scientific and Cultural Organization, *Records of the General Conference, Thirty-first Session, Paris, 15 October-3 November 2001*, vol. 1 and corrigendum: *Resolutions*.

[7] United Nations, *Treaty Series*, vol. 2368, No. 42671.

[8] See United Nations Educational, Scientific and Cultural Organization, *Records of the General Conference, Thirty-third Session, Paris, 3-21 October 2005*, vol. 1 and corrigenda: *Resolutions*.

[9] Resolution 59/38, annex.

Recalling the adoption by the General Conference of the United Nations Educational, Scientific and Cultural Organization on 17 October 2003 of the Declaration concerning the Intentional Destruction of Cultural Heritage,[10]

Noting the adoption of the Universal Declaration on Cultural Diversity and the Action Plan for its implementation, adopted by the General Conference of the United Nations Educational, Scientific and Cultural Organization on 2 November 2001,

Welcoming the report of the Secretary-General submitted in cooperation with the Director-General of the United Nations Educational, Scientific and Cultural Organization,[11]

Commending Member States, cultural and educational institutions, museums and civil society in their efforts to combat the illicit trade in cultural properties, and welcoming all initiatives for the voluntary return of cultural properties that have been illicitly appropriated,

Aware of the importance attached by the countries of origin to the return of cultural property that is of fundamental spiritual, historical and cultural value to them, so that they may constitute collections representative of their cultural heritage,

Expressing deep concern about the continuing illicit traffic in cultural property and its damage to the cultural heritage of nations,

Reaffirming the necessity of international cooperation in preventing and combating all aspects of trafficking in cultural property, and noting that such cultural property is especially transferred through licit markets, such as auctions, including through the Internet,

Expressing concern about the loss, destruction, removal, theft, pillage, illicit movement or misappropriation of and any acts of vandalism or damage directed against cultural property, in particular in areas of armed conflict, including territories that are occupied, whether such conflicts are international or internal,

Recalling Security Council resolution 1483 (2003) of 22 May 2003, in particular paragraph 7 relating to the restitution of the cultural property of Iraq, and Council resolution 2056 (2012) of 5 July 2012, on the situation in Mali,

1. *Commends* the United Nations Educational, Scientific and Cultural Organization and the Intergovernmental Committee for Promoting the Return of Cultural Property to its Countries of Origin or its Restitution in Case of Illicit Appropriation on the work they have accomplished, in particular through the promotion of bilateral negotiations, for the return or restitution of cultural property, the preparation of inventories of movable cultural property and the implementation of the Object-ID standard related thereto, as well as for the reduction of illicit traffic in cultural property and the dissemination of information and tools to the public, institutions, Member States and others, and encourages the continuation of such endeavours;

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[10] See United Nations Educational, Scientific and Cultural Organization, *Records of the General Conference, Thirty-second Session, Paris, 29 September-17 October 2003*, vol. 1 and corrigendum, *Resolutions*.

[11] See A/67/219.

2. *Notes* the support provided by the United Nations Educational, Scientific and Cultural Organization to launch international awareness-raising and training campaigns for museum experts, police forces, Customs services and legal experts in Africa, Latin America, South-Eastern Europe and the Caribbean from September to December 2012, aimed at preventing the illicit import, export and transfer of ownership of cultural property by providing the legal and operational knowledge and directly applicable skills to strengthen the protection of cultural property;

3. *Calls upon* all relevant bodies, agencies, funds and programmes of the United Nations system and other relevant intergovernmental organizations to work in coordination with the United Nations Educational, Scientific and Cultural Organization, within their mandates and in cooperation with Member States, in order to continue to address the issue of return or restitution of cultural property to the countries of origin and to provide appropriate support accordingly;

4. *Recognizes* the leading role of the United Nations Educational, Scientific and Cultural Organization in combating trafficking in cultural property, and encourages the organization to continue to provide leadership and expertise in protecting cultural property to other international bodies, including the United Nations Office on Drugs and Crime and the International Criminal Police Organization (INTERPOL);

5. *Reaffirms* the importance of the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property, the Convention on Stolen or Illegally Exported Cultural Objects, the Convention for the Protection of Cultural Property in the Event of Armed Conflict and the two Protocols thereto, the Convention Concerning the Protection of the World Cultural and Natural Heritage, the Convention on the Protection of the Underwater Cultural Heritage, the Convention for the Safeguarding of the Intangible Cultural Heritage and the Convention on the Protection and Promotion of the Diversity of Cultural Expressions, and invites Member States that have not already done so to consider becoming parties to the aforementioned conventions and protocols that specifically address the return and restitution of cultural property to the countries of origin;

6. *Takes note* of the report of the meeting on the fortieth anniversary of the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property, held in Paris at the headquarters of the United Nations Educational, Scientific and Cultural Organization, on 14 and 15 March 2011, and of the Declaration of the International Forum on the Return of Cultural Property, held in Seoul on 19 July 2011;

7. *Notes with appreciation* the first meeting of the Special Committee to review the practical operation of the Convention on Stolen or Illegally Exported Cultural Objects, held at the headquarters of the United Nations Educational, Scientific and Cultural Organization on 19 June 2012;

8. *Welcomes* the decision of the second meeting of the States parties to the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property, held in June 2012, which adopted the Rules of Procedure of the meeting of the States parties, by which, inter alia, it was decided that the meeting of the States parties shall be convened every two years and which established a subsidiary committee that will be convened every year by

the secretariat in order to, inter alia, promote the purposes of the Convention, review national reports, and prepare and submit to the meeting of States parties recommendations and guidelines that can help the implementation of the Convention and identify problems arising from its implementation;

9. *Notes* the authorization given to the Director General of the United Nations Educational, Scientific and Cultural Organization to convene in the first half of 2013 an Extraordinary Meeting of States parties to the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property, charged notably with electing the members of a subsidiary committee, as well as the encouragement given to the Director General to convene the first meeting of the committee in the first half of 2013;

10. *Recognizes* the importance of the United Nations Convention on Jurisdictional Immunities of States and Their Property, notes that the Convention has still not entered into force, and invites Member States that have not already done so to consider becoming parties to the Convention;

11. *Deplores* damage to cultural heritage of countries in situations of crisis, conflict and post-conflict, in particular recent attacks on world cultural heritage sites, calls for an immediate end to such acts, and reminds States parties to the Convention for the Protection of Cultural Property in the Event of Armed Conflict of the provisions contained therein to safeguard and respect cultural property and to prohibit, prevent and, if necessary, put a stop to any form of theft, pillage or misappropriation of and any acts of vandalism directed against cultural property;

12. *Welcomes* the most recent efforts made by the United Nations Educational, Scientific and Cultural Organization for the protection of the cultural heritage of countries in conflict, including the safe return to those countries of cultural property and other items of archaeological, historical, cultural, rare scientific and religious importance that have been illegally removed, and calls upon the international community to contribute to these efforts;

13. *Urges* Member States to introduce effective national and international measures to prevent and combat illicit trafficking in cultural property, including publicizing legislation and offering special training for police, Customs and border services and to consider such trafficking a serious crime, as defined in the United Nations Convention against Transnational Organized Crime;[12]

14. *Invites* Member States, in cooperation with the United Nations Educational, Scientific and Cultural Organization, to continue to draw up systematic inventories of their cultural property;

15. *Invites* States to consider establishing and developing national, regional and international databases inventorying cultural property, which would also register trafficked, illicitly exported or imported, stolen, looted or illicitly excavated, and illicitly dealt-in cultural property, and encourages States to enhance the exchange of information by sharing or interconnecting inventories of cultural property and databases on trafficked, illicitly exported or imported, stolen, looted or illicitly excavated, and illicitly dealt-in cultural property and contributing to international inventories and databases;

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[12] United Nations, *Treaty Series*, vol. 2237, No. 39574.

16. *Recognizes* the advancement of the Database of National Cultural Heritage Laws of the United Nations Educational, Scientific and Cultural Organization, which includes legislation from 180 Member States, and invites Member States to provide their legislation in electronic format for inclusion in the database if they have not yet done so, to provide regular updates to the database and to promote it;

17. *Applauds* the efforts of the United Nations Educational, Scientific and Cultural Organization to promote the use of identification and inventory systems, in particular the application of the Object-ID standard, and to encourage the linking of identification systems and existing databases, including the one developed by the International Criminal Police Organization (INTERPOL), to allow for the electronic transmission of information in order to reduce illicit trafficking in cultural property, and encourages the United Nations Educational, Scientific and Cultural Organization to make further efforts in this regard in cooperation with Member States, where appropriate;

18. *Notes* the adoption by the Intergovernmental Committee for Promoting the Return of Cultural Property to its Countries of Origin or its Restitution in Case of Illicit Appropriation, at its 17th meeting, of the rules of procedure for mediation and conciliation, and invites Member States to consider the possibility of using such processes as appropriate;

19. *Welcomes* the presentation by the United Nations Educational, Scientific and Cultural Organization and the International Institute for the Unification of Private Law of model provisions on state ownership of undiscovered cultural objects, and encourages Member States to consider using these model provisions and adopting effective legislation for the establishment and recognition of States' ownership of their heritage, as appropriate under domestic laws, with a view to facilitating restitution in cases of unlawful removal;

20. *Notes* the model export certificate for cultural objects developed by the United Nations Educational, Scientific and Cultural Organization and the World Customs Organization as a tool to combat illicit trafficking in cultural property, and invites Member States to consider adopting the model export certificate as their national export certificate, in accordance with domestic law and procedures;

21. *Takes note of* resolution 102,[13] adopted by the General Conference of the United Nations Educational, Scientific and Cultural Organization at its thirty-sixth session in November 2011, on the reports by Member States on the measures taken for the implementation of the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property;

22. *Recognizes* the public awareness and increased mobilization and action in favour of heritage values achieved in 2002, the United Nations Year for Cultural Heritage, and on the occasion of the fortieth anniversary of the Convention Concerning the Protection of the World Cultural and Natural Heritage, and calls upon the international community and the United Nations to continue to cooperate

[13] See United Nations Educational, Scientific and Cultural Organization, *Records of the General Conference, Thirty-sixth Session, Paris, 25 October-10 November, 2011*, vol. 1 and corrigenda: *Resolutions*.

with the United Nations Educational, Scientific and Cultural Organization on the basis of that work;

23. *Invites* those who deal with trade in cultural property and their associations, where they exist, to encourage the effective implementation of the International Code of Ethics for Dealers in Cultural Property, as endorsed by the General Conference of the United Nations, Educational, Scientific and Cultural Organization on 16 November 1999,[14] the International Council of Museums Code of Ethics for Museums and other existing codes;

24. *Welcomes* the initiative of the Director General of the United Nations Educational, Scientific and Cultural Organization to hold discussions with the representatives of the international trade in art in order to improve practices and raise awareness in such areas as provenance investigations, ethics, restitution procedures and knowledge of the international legal framework;

25. *Recognizes* the importance of the International Fund for the Return of Cultural Property to its Countries of Origin or its Restitution in Case of Illicit Appropriation, launched in November 2000, and invites Member States to increase further their voluntary contributions to the Fund in order to enhance its efficiency and to make use of this Fund;

26. *Also recognizes* the importance of cooperation among States in the fight against illicit trafficking of cultural property, as well as its illegal removal from the countries of origin, through, inter alia, the conclusion of bilateral agreements and mutual legal assistance, including the prosecution of persons involved in such activities and extradition, in accordance with the laws of cooperating States and under applicable international law;

27. *Requests* the Secretary-General to cooperate with the United Nations Educational, Scientific and Cultural Organization in its efforts to bring about the attainment of the objectives of the present resolution;

28. *Also requests* the Secretary-General, in cooperation with the Director General of the United Nations Educational, Scientific and Cultural Organization, to submit to the General Assembly at its seventieth session a report on the implementation of the present resolution;

29. *Decides* to include in the provisional agenda of its seventieth session the item entitled "Return or restitution of cultural property to the countries of origin".

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[14] See United Nations Educational, Scientific and Cultural Organization, *Records of the General Conference, Thirtieth Session, Paris, 26 October-17 November 1999*, vol. 1 and corrigendum: *Resolutions*.